

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

Jose Ramon MOLINA-Martinez,
Defendant.

Magistrate Case No. 08MJ8472

FINDINGS OF FACT AND ORDER
OF DETENTION

On the Court's own motion and in accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on May 27, 2008, to determine whether defendant Jose Ramon MOLINA-Martinez, should be held in custody pending trial on the grounds that he is a flight risk. Assistant U. S. Attorney John F. Weis, appeared on behalf of the United States. Diane Regan, of Federal Defenders of San Diego, Inc., appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the pretrial services officer, and the criminal complaint issued against the Defendant on May 27, 2008, by this Court, the Court concludes that the following facts establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant is required.

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I

FINDINGS OF FACT

A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1))

1. The Defendant is charged in Criminal Complaint No. 08MJ8472 with Deported Alien Found in the United States, in violation of Title 8, United States Code, § 1326. Therefore probable cause exists to believe the Defendant committed the charged offense.

B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2):

1. On May 23, 2008, U. S. Border Patrol Remote Surveillance Camera Operator saw a group enter the United States illegally east of the Calexico Port of Entry. The camera operator guided Border Patrol Agent Lemus to the area where the group was located. During questioning, Defendant stated he was a citizen of Mexico illegally in the United States.

2. Record checks revealed that the Defendant had previously been deported. Defendant admitted to his prior deportation and criminal record.

C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3)

1. The Defendant is a Citizen of Mexico.

2. The Defendant resides in Mexico.

3. The Defendant has no immigration status to live in the United States. Furthermore, the Defendant was deported from the United States on November 21, 2005, through the San Ysidro Port of Entry.

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1 D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4))

2 1. The Defendant has the following criminal history:

3 07/13/04 - 11550(a) HS Use/Under influence controlled substance - 6 month diversion;
4 11/01/05 - 496(D)(A) PC Possess stolen vehicle vessel, etc., probation revoked reinstate
5 sentence modify imposed sentence suspended 6 months jail,, \$58; Probation Revoked reinstate sentence modify
6 imposed sentence 36 months probation;
7 11/16/05 - Misdemeanor 148 PC Obstruct Public Officer - 90 days jail;
8 11/16/05 - Felony 10851 VC Take vehicle without owner's consent - 6 months jail;
9 36 months probation, imposed sentence suspended;
10 01/25/06 - Probation Violation/Revoke/or Reinstate with sentence modified - 6 months
11 jail, imposition sentence suspended, \$582.00 fine;
12 04/05/06 - Felony 666 PC Petty theft with prior jail: specific offense - 510 days jail, fine
13 imposed sentence suspended, 36 months probation;
14 - Probation Violation/Revoke/or Reinstate with sentence modified -
15 imposed sentence suspended, 36 months probation, 420 days jail, \$582 fine;
16 10/11/06 - Ct. 1: Felony 11377 HS Possession of Controlled Substance - 2 years prison;
17 10/20/06 - 10851(A) VC Take vehicle without owner's consent, vehicle theft - 2 years
18 prison;
19 09/19/07 - 10851(a) VC Take vehicle w/out owner's consent;
20 - 666 PC Petty theft with prior;
21 10/16/07 - Violation of parole - To Finish Term;
22 09/21/07 - Probation Violation Revoke probation Revoke and/or reinstate with
23 sentence modified - 240 days jail;

24 II

25 REASONS FOR DETENTION

26 A. There is probable cause to believe that the Defendant committed the offense charged in
27 Criminal Complaint No. 08MJ8472, namely, Deported alien Found in the United States (Felony), in
28 violation of Title 8, United States Code, § 1326.

29 B. The Defendant faces a substantial period of time in custody if convicted of the offense
30 charged in the Complaint. He, therefore, has a strong motive to flee.

31 C. Furthermore, the Defendant is a Mexican Citizen and has no legal right to live or work
32 in the United States. Bail is, therefore, impractical as defendant if released on bail would be taken into

1 immigration custody and remain in custody or would be deported and unavailable for further
2 proceedings before this Court.

3 D. Based upon the Court's findings there is no condition or combination or conditions
4 that will reasonably assure the appearance of the Defendant as required.

5 III

6 ORDER

7 IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

8 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney
9 General or his designated representative for confinement in a corrections facility separate, to the extent
10 practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The
11 Defendant shall be afforded reasonable opportunity for private consultation with counsel.

12 While in custody, upon order of a court of the United States or upon the request of an attorney
13 for the United States, the person in charge of the correctional facility shall deliver the Defendant to the
14 United States Marshal for the purpose of an appearance in connection with a court proceeding or any
15 other appearance stipulated to by defense and government counsel.

16 THIS ORDER IS ENTERED WITHOUT PREJUDICE.


17 IT IS SO ORDERED.

18 DATED: 6-16-08.

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21 PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

22 Prepared by:

23 KAREN P. HEWITT
24 United States Attorney

25 
26 JOHN F. WEIS
27 Assistant U. S. Attorney

28 cc: Diane Regan
Federal Defenders of San Diego, Inc.